EDUCATIONAL QUALIFICATIONS FOR THE SUFFRAGE IN THE UNITED STATES.

A SOMEWHAT heated debate which occurred last year in the United States Senate, over the proposed educational test to be required of immigrants,[1] brought out clearly the puzzling variety of state laws upon which our Federal suffrage rests. The discussion made equally obvious the fundamental disagreement of our lawmakers as to the nature or basis of the suffrage. In attacking the proposed test its most vigorous opponent urged :

> The whole principle upon which these requirements are made, either in New England or in the States, of literary qualifications for the exercise of any right, is a crime against humanity. In some of the New England States they require that men should be able to read and write.

This called from a New Hampshire senator the hasty apology: "I believe there is only one New England state does so,— Massachusetts." Apparently ten New England senators were present, yet this shamefaced attempt of the New Hampshire statesman to defend New England from the charge of narrowness called forth no comment, and the attack was continued upon "the fatal example of Massachusetts, which has furnished a precedent for much of the history of the South." Inasmuch as Massachusetts was not the state to set this fatal example, and as these qualifications now obtain, not in one alone, but in three of the New England states, while in other sections of the country they have in recent years been gaining in favor, a sketch of the history of the adoption of such measures and a comparison of those laws which in different states are now conditioning our common Federal suffrage may not be untimely.

[1] *Congressional Record*, February 18, 1897.

I.

The first step toward the requirement of an educational test for voters was taken by Connecticut in 1854. This was the year in which the tide of immigration, rising rapidly since 1847, reached its flood, not to be surpassed for a score of years. The states which were being overrun by these hordes of newcomers stood aghast at the magnitude of the new problems forced upon them. The spirit of nativism revived. It is doubtful if any council of the Know-nothing order, soon destined to be all-conquering, had as yet been established in Connecticut, but the times were fully ripe for its rapid growth. It was thus not in a legislature actually elected by and composed of members of a formally organized "American" party, but in a legislature filled with grave nativist apprehensions, that the lower house by a heavy vote proposed an amendment to the constitution, requiring that every person "be able to read any article of the Constitution, or any section of the statutes of this State, before being admitted an elector."[1] The proposed amendment lay over until the next year. Meantime the state was overspread with a mushroom growth of Know-nothing councils. The new legislature was overwhelmingly "American," and the amendment was passed in each house by a majority far exceeding the two-thirds required by the constitution.[2] A few months later it was ratified by the people with a decisive vote.[3] While its success was largely due to the Know-nothing agitation, it drew to its support men of all parties. Even in the cities the opposition numbered few more votes than those of the foreign-born. Every county gave a majority in its favor, and in less than one-third of the towns was it voted down.

During the next forty years this section of the constitution was variously construed by boards for the admission of electors in the towns of the state. In 1895 a law was passed providing that the reading should be "in the English language." Two

[1] June 21, 1854, vote, 114:81.

[2] May 23, 1855, Senate, 17:2; May 31, 1855, House, 156:57.

[3] 17,275:12,518.— *Connecticut Courant*, September 30; October 5; October 20, 1855.

years later, by a majority of ten to one, the people ratified an amendment embodying this requirement.

At first thought it may seem strange that the precedent in this restrictive legislation was not set by Massachusetts, the commonwealth in which the burdens and difficulties entailed by the rapidly increasing immigration and by the growth of cities were so much more onerous than in any other state.[1] Nowhere else did Know-nothingism run such a triumphant course. Perhaps it was the very intensity of the nativist spirit which postponed the adoption of the educational qualification, for in that strange congeries of lawmakers which met in Boston in 1855 antipathy to foreigners was so great that the majority could not be persuaded to support a simple test of intelligence.[2] Perhaps it was feared that inroads might thus be made in the ranks of "Americans." At any rate, the proposed amendment requiring ability to read and write the English language was voted down in favor of a clumsily drawn bill, rushed through on the last day of the session, excluding from the franchise all who had not been for twenty-one years resident in the United States and legally naturalized. This proposal, however, met with well-merited defeat at the hands of the next legislature. It was not until 1856, when the Know-nothing ardor had very much abated, that the legislature gave its sanction to the requirement of ability to read the constitution in the English language and to write one's name as a prerequisite to registration as a voter. Careful provision was made against disqualifying any person on account of physical disabilities, and the test was not to be exacted of any who should already be voters or who should be over sixty years of age at the time when the amendment should take effect. Despite the rapidly waning influence of Americanism, this amendment passed both houses of the following legislature by greatly increased majorities,[3] and was ratified by the people by a majority of about two to

[1] G. H. Haynes, "Causes of Know-nothing Success in Massachusetts," *American Historical Review*, October, 1897.

[2] G. H. Haynes, "A Know-nothing Legislature," Proceedings of the American Historical Association, 1896.

[3] 1856, House, 188 : 94; Senate, 26 : 4; 1857, House, 266 : 43; Senate, 30 : 5.

one.[1] Although regarded as an "American" measure in origin, the independent press for the most part did not oppose it.[2] The lightness of the vote showed that the mass of the people felt little interest in its fate.

It was not until a generation later that the people of Wyoming adopted the educational qualification.[3] In the constitution under which that state was admitted to the Union was incorporated the provision: "No person shall have the right to vote who shall not be able to read the constitution of this state." The Supreme Court of Wyoming has decided that this reading must be in the English language.[4] Two years later the citizens of Maine ratified a constitutional amendment copied almost *verbatim* from the Massachusetts amendment of 1857.[5] The opposition, both in the legislature and at the polls, was entirely insignificant. Both in Maine and in Wyoming careful provision was made against the disfranchisement of any person because of any physical disability. Equally conservative is the new requirement in Delaware.[6] The would-be voter must be "able

[1] *Worcester Palladium*, May 6, 1857.

[2] Of the *Boston Daily Advertiser*, the *Worcester Palladium* and the *Worcester Daily Spy*, the first two remained entirely neutral, while the *Spy* opposed the amendment strenuously as "proscriptive, absurd, and contrary to natural right."— April 28, 1857.

[3] Constitution adopted at Cheyenne, September 30, 1889, Art. VI, Sec. 9.

[4] The debates of the convention show that the author of this proposition referred to the section of the Massachusetts constitution as being similar, except that it adds the words, "in the English language." Upon the expediency of this specific requirement the framers of the constitution were divided, and it was omitted. In ratifying the constitution, it is probable that the people thought that those who could read it only when translated into a foreign language should be entitled to vote. As a matter of fact, in the elections of 1892, 1894 and 1896, in every precinct of Wyoming except two, men of foreign speech voted unchallenged. In 1896, however, the question was brought before the courts in a case arising out of votes cast by native Finlanders who could read no English. The Supreme Court's decision was that, six years' usage to the contrary, a translation into a foreign language is not to be regarded as a copy of the constitution, and that "no person is able to read the constitution who cannot read it in the English language." (Rasmussen *vs.* Baker, 50 Pacific Reporter, p. 819. This decision served as a precedent in two similar cases, Blydenburgh *vs.* Chatterton and Irons *vs.* Clark.—November 15, 1897.)

[5] Amendment XXIX. House, 114:11; Senate, 26:1.— *Maine State Press*, April 2, 1891.

[6] Constitution of Delaware, 1897, Art. V, Sec. 2.

to read this constitution in the English language and write his name"; but this test does not apply to any person who by reason of physical disability shall be unable to comply with it, and two and a half years' warning is given before the law goes into effect. In Rhode Island the revised constitution, soon to come before the electors for ratification, requires that every voter shall be "able to read this constitution in the English language, and write his name."[1] In California, too, this subject has been recently mooted. In November, 1896, the voters rejected by a rather close vote a proposed amendment providing that no person who should not be able to write his or her name should ever exercise the privilege of an elector in that state. The vote upon this amendment was far larger than that upon any of the others submitted to the people at the same time;[2] but as equal suffrage to women and the perpetual exclusion of all natives of China from the suffrage were also involved in this "Omnibus Bill," its failure is not to be interpreted as a rejection of the principle of the educational qualification.

In two states, then, educational qualifications were adopted in the middle of the century, when nativism was at its height; while in three others practically the same restrictions have been adopted many years later, not in the heat of passion or as a party measure, but simply because they have been considered a step toward the elevation of the voters' plane of intelligence.

Meantime, this "fatal precedent," not of Massachusetts but of Connecticut, had been noted elsewhere, and preparation was made to follow it in letter, if not in spirit; for to some of the southern states this test seemed to offer a hint for the solution of their gravest problem in government. In Mississippi, the home of the president of the Confederacy, the process of "reconstruction" had been peculiarly exasperating to the feelings of the whites; and with a negro element amounting to nearly 69 per cent of the entire population, the problem of local government was certainly one of serious difficulty. In 1864 Lincoln had suggested to the governor of Louisiana that it might be advis-

[1] Revised Constitution of Rhode Island, Art. II, Sec. 2. To be voted on November 8, 1898.

[2] The vote stood 110,355 : 137,099.

able to extend the suffrage to the "very intelligent" among the negroes. A year later Johnson advised Mississippi to give the vote to negroes who possessed a little property and could read and write. But Mississippi was unwilling to make any such concessions, and, as a result, had to accept a constitution which admitted to the suffrage all male citizens of the United States possessing certain qualifications of age and residence, and prohibited any imposition of a property or educational qualification before 1885.[1] Outnumbered heavily as the whites were, only ten years had passed before they had found means by which to secure political control. But the vanquishing of ignorance and inexperience by intimidation and fraud was not an inspiring spectacle; and in 1890 it was recognized, by Democrats and Republicans alike, that the gravest task which the constitutional convention had to face was the "devising of some means of putting a check in the text of the constitution upon ignorance and corruption."[2] The convention was in the hands of the moderates. The committee on the elective franchise was recognized as the most important, and its thirty-five members included the only negro in the convention. After much debate over various propositions, by a vote of 74 to 47 there was embodied in the constitution a clause declaring that:

> On and after the first day of January, A.D. 1892, every elector shall, in addition to the foregoing qualifications, be able to read any section of the constitution of this state; or he shall be able to understand the same when read to him, or give a reasonable interpretation thereof.[3]

On the first day of November, 1890, this constitution was ordained and established by the convention, without being

[1] "The Problem of 1890," *The Nation*, July 30, 1890. The reconstruction acts bearing upon negro suffrage are those of March 2, 1867, and March 23, 1867. As a prerequisite to the admittance of representatives to Congress and the withdrawal of military government, "it was required that a state constitution should have been framed by a convention chosen by all male citizens of the state 'of whatever race, color or previous condition,' and that, in that constitution, the same qualifications for the electoral franchise should be ordained." — Wm. A. Dunning, Essays on the Civil War and Reconstruction, p. 124.

[2] Ex-Governor Alcorn (Republican), quoted by *The Nation*, September 4, 1890.

[3] Art. XII, Sec. 244.

referred to the people at the polls. Of the 133 delegates only three refused to sign.

In applying the educational qualification to the problem of local government, South Carolina has followed Mississippi's lead, but in several important respects she has "bettered the instruction." Here again was a state, 60 per cent of whose population was of negro descent, yet whose government had been brought into the hands of the whites. In the campaign which preceded the assembling of the constitutional convention in 1895 the question of the franchise was constantly to the fore. Some of the papers of the state were singularly blunt in their statement of the problem. Said the *Charleston News and Courier:*

> Nobody tries to conceal it, nobody seeks to excuse it. It is not meant to disfranchise every negro in this state — there are some of them who are qualified by education and property to vote — but it is intended that every colored voter who can be disfranchised without violating the higher law of the United States Constitution shall be deprived of the right to vote. On the other hand, it is meant to disfranchise no white man, except for crime, if any way can be found to do it without violating the United States Constitution.[1]

Yet the northern press was little excited over the prospect of such a change. The elections of delegates were not closely contested. In some precincts the polls were not opened ; in others there was no voting, for it was foreseen that the Tillmanites would secure control. Of the 159 members 153 were Democrats and six Republicans — the latter being negroes. Various schemes of suffrage restriction were suggested : an educational or a property qualification, or a combination of the two ; plural voting, giving an additional vote to the property holder as such and allowing votes to women property holders, to be cast by their husbands or male representatives. Barefaced measures were not lacking : the convention early voted down a proposition to exclude the blacks from office altogether. The result of all this deliberation was a strange set of options. Until January 1, 1898, applicants for registration as voters were

[1] Quoted in *The Nation*, October 31, 1895.

to be able to "read any section of the constitution submitted to them by the registration officer." All those registering before the above date become permanent voters. After that date, however, the applicant was to be registered only provided

he can both read and write any Section of this Constitution submitted to him by the registration officer or can show that he owns and has paid all taxes collectable during the previous year on property in the State assessed at three hundred dollars ($300) or more.

Here, as in Mississippi, the new constitution was ratified by the convention which framed it, without being referred to the people at the polls. This method is not without precedent in a number of our states, but it is in striking contrast with the provisions of South Carolina's prior constitution, which required for a proposed amendment a vote of two-thirds of the members of each house of the legislature in two successive years, together with a vote in its favor by a majority of all the voters of the state before it came before the legislature the second time.[1] Although this suffrage legislation was far more radical than that of Mississippi, it did not call forth so much protest. It may be that the gravity of the problem had come to be better appreciated and that candid men were questioning whether the attempt by law to exclude illiterates from the suffrage was a much more high-handed proceeding than the giving over of a conquered section to the rule of illiterate masses with no training in self-government and thus the foreordained prey of the demagogue.[2]

[1] It is to be remembered, however, that this constitution was framed in the Reconstruction period.

[2] It is to be remembered that, while Congress was insisting upon the negro's enfranchisement at the South, northern states were far from eager to accept it. Thus, Ohio, Michigan, Minnesota and Kansas rejected it, and the party which triumphantly elected Grant in 1868 adopted as the second plank in its platform the following: "The guarantee by Congress of equal suffrage to all loyal men at the South was demanded by every consideration of public safety, of gratitude and of justice, and must be maintained; while the question of suffrage in all the loyal states properly belongs to the people of these states." (Stanwood, Presidential Elections, p. 258.) It was less the following out of abstract theories of equality than the attempt to solve a very practical problem in politics which led to the giving of the ballot to the negro. See Dunning, Essays on the Civil War and Reconstruction, pp. 227, 251.

Louisiana affords the most recent and the most ingenious example of educational qualifications "with a purpose." The constitutional convention which met February 11, 1898, had as its main cause of being the task of making negro domination impossible by disfranchising the blacks so far as this could be done without running foul of constitutional snags. Ten days were assigned to this task; but so knotty a problem did it prove that, after struggling with it for fifty days, the convention had to vote itself more money and several added weeks of life. Something like thirty suffrage plans came under discussion. The Mississippi and the South Carolina plans both had strong backing but were voted down, the convention taking the ground that it wished to settle the suffrage question fairly and honestly. A provision disfranchising all who could neither read nor write, and who did not own and pay taxes on property to the value of $300, lost its attractiveness when it became known that the application of such a test would disfranchise 20,000 white voters. Resort was finally had to options. Under the first of these, each would-be voter is required to demonstrate his ability to read and write by making written application for registration in the English language or in his mother tongue. This application is to be

> entirely written, dated and signed by him in the presence of the registration officer or his deputy, without assistance or suggestion from any person or any memorandum whatever except the form of application herein set forth.[1]

If a would-be voter cannot read and write, he may be registered, under the next option, upon proving that he owns and has paid taxes upon property assessed to him in Louisiana at a value of not less than $300.[2] The first of these provisions could be relied upon to disfranchise the bulk of the negroes, but thousands of whites would also be excluded. The second clause

[1] Constitution of Louisiana, adopted May 12, 1898, Art. CXCVII, Sec. 3. The prescribed form of application contains about seventy-five words. An applicant who does not know English may write the application in his mother tongue at the dictation of an interpreter. A man prevented from writing by physical disability may, upon making oath to that disability, dictate his application.

[2] Art. CXCVII, Sec. 4.

would cut still further into the votes of both races. Hence the demand that the convention's purpose should be gained with more directness and certainty took form in a third option, the object of which is not far to seek. So novel are its provisions that it deserves quotation at length.

SEC. 5. No male person who was on January 1st, 1867, or at any date prior thereto, entitled to vote under the Constitution or statutes of any State of the United States, wherein he then resided, and no son or grandson of any such person not less than twenty-one years of age at the date of the adoption of this Constitution, and no male person of foreign birth, who was naturalized prior to the first day of January, 1898, shall be denied the right to register and vote in this State by reason of his failure to possess the educational or property qualifications prescribed by this Constitution; provided, he shall have resided in this State for five years next preceding the date at which he shall apply for registration, and shall have registered in accordance with the terms of this article prior to September 1, 1898, and no person shall be entitled to register under this section after said date.[1]

When this plan was first broached in the convention, counsel was taken of the two Louisiana senators. It is said that they both pronounced it unconstitutional, and declared that they could not defend it against attacks in the Senate. Other Democratic senators expressed the same view;[2] but the convention finally adopted the questionable provisions, taking care, however, to put them in a section by themselves, so that, in case they do not survive a bout with the courts, the remaining provisions may come out unscathed. If this section stands, its effect is obviously to relieve from subjection to the educational and property qualifications practically every white voter within the state, while letting these tests apply with full force to the negroes. Separate registration is to be made of those who choose to register under this provision. As the time limit for such registration is reached August 31, 1898, while the other qualifications do not come into force until January 1, 1899, it will be of interest to see how large a white vote is retained by this piece of artful dodging.

[1] Art. CXCVII, Sec. 5.

[2] *New York Sun*, May 22, 1898.

II.

There has been not a little contrast in the spirit and methods in which these tests have been applied. Thus, while the constitutions of Connecticut and Wyoming are silent as to the status of those already admitted to the suffrage before the adoption of this test, in Massachusetts, Maine and Delaware most careful provision is made that no person already a voter shall be disfranchised. But in Mississippi, South Carolina and Louisiana — except as regards white voters in Louisiana — no such provision is to be found ; indeed, its insertion would in large measure have removed the very motive for the amendment, for in these states the problem was not how to deal with a future increment of ignorance, but how by constitutional restrictions to keep from the ballot box a vast number of voters of proved incapacity for self-government. That, as a matter of "practical politics," the law makes it possible for the registration officer to test fitness for the voter's privilege according to the color of the applicant's skin is not to be denied. But Northern disapproval, cool-blooded and remote, of such race discrimination cannot belittle the seriousness of the problem. Of the three states which adopted these tests, not as safeguards against a future danger but with the definite purpose of purging the voting lists of illiterates, Mississippi was the most liberal, for she allowed more than a year after the promulgation of the constitution before its restrictive qualifications went into effect, and then insisted simply on ability to read the constitution or to give a reasonable interpretation of its provisions. South Carolina, on the other hand, put this same test in force immediately, with the warning that after two years the qualification would be stiffened by requiring in addition the ability to write any section of the constitution, while at the same time the "interpretation" option would be withdrawn, a sizable property qualification becoming the only alternative for the would-be voter who should fail to meet the most exacting educational test which had thus far been imposed in any American state.

In each of these states the law is so framed as to make all depend upon the spirit and integrity of the officer in charge of the election machinery. A negro of wide outlook who is engaged in most successful educational work among his own people writes me :

> If the restriction had applied with equal force to both the illiterate white vote and the illiterate negro vote we would not have complained. The negroes throughout the South are ready for a fair educational test and rather desire it. This educational test [in Mississippi] is working a benefit, and is helping the negro in the respect that he is now giving his time and attention to getting property and education.

The same writer is of the opinion that in practice "those who administer the law in respect to voting do discriminate against the negroes," and that thus the proportionate influence of the negro vote is very largely diminished. He thinks that in Mississippi not less than four-fifths of the negro voters have been disfranchised under this qualification. This rough estimate is supported by the official statistics of elections. In 1896, when for the first time official notice was taken of race distinctions in the registration returns for the gubernatorial election, there were registered 105,101 whites and 15,268 negroes. The contrast is the more striking when it is recalled that in Mississippi the colored population exceeds the whites in the ratio of three to two. From the point of view of the party in power

> the franchise clause works well in Mississippi. So far from operating against the negro it is an incentive for his qualifying himself for suffrage. There are now fully 16,000 registered colored voters in this state, and that means intelligence and taxpaying.

So writes the present secretary of the state, in answer to my inquiries. This state official and this leader of the negro race thus agree that the present educational test is actually operating as a benefit to the negroes. Their only disagreement is as to the race prejudice which undoubtedly determined its form, and which has in some measure characterized its administration. Obviously the test puts no insurmountable

obstacle in the way: the negroes are rapidly qualifying, and those who have valued the test as a barrier rather against negroes than against illiterates will find it a failing resource. Under the new conditions, however, it is to be anticipated that the negroes will show greater intelligence and independence than heretofore, and that the negro vote, being less a unit, will provoke less of race antagonism.

In applying the test varying methods have been adopted in the several commonwealths. The problem, of course, is to secure a genuine test and to prevent collusion between the voter and the registration officer. In the regulation of this process Massachusetts has been the most minute. There, in the first place, the registration board must be composed of members of more than one party, thus enlisting party jealousy in the cause of honest registration. The registrars are furnished by the secretary of the commonwealth with the constitution, printed on uniform pasteboard slips, each containing five lines printed in double small pica type. A full number of these slips are kept at all times in a special box, furnished by the state and so constructed that the box, with the slips concealed from view, may be revolved. From this box the candidate for registration must draw one slip and read the words thereon printed. After the return of the slip the contents of the box must be shaken up before the next drawing is made. These regulations may seem absurdly finespun, but the danger of cramming or of collusion warrants great precaution. In former years stories were told of specially primed candidates for registration who read with great glibness the opening sentences of the constitution out of the first chapter of Genesis!

III.

When Mississippi first brought these suffrage qualifications to bear upon the problem of local government, the Northern press made much outcry over the question of constitutionality. It was claimed that here was real though covert violation of the Fifteenth Amendment. Yet, although unjust discrimination

between the races might characterize the administration of the law, obviously "race, color or previous condition of servitude" could in hardly any case be proved to be the cause of the exclusion from the suffrage. If the application of such tests was to be inhibited, it was evident that recourse must be had, not to the Fifteenth Amendment, but to that section of the Fourteenth which declares that when the right to vote at any state or Federal election

> is denied to any of the male inhabitants of such state, being twenty-one years of age and citizens of the United States, or in any way abridged except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state.

Against this provision, it is claimed, all of these states have offended in restricting their suffrage. Massachusetts, as well as Mississippi, each year excludes from the suffrage "male inhabitants of such state, being twenty-one years of age and citizens of the United States." Why, then, has not the penalty been inflicted? First, it may be answered, for lack of those who are willing to force the issue. There are not wanting individuals or political parties ready to decry in advance any educational tests as an unwarranted infringement of citizens' rights. But when once a state has adopted such qualifications it would be a thankless and inglorious contest which should aim to throw down the barriers and lay open the franchise to the illiterate. What party would dare make that an issue? But it is doubtless not so much the lack of champions as the obvious futility of attempting to apply the penalty provided by the constitution which explains inaction in the face of these restrictions. The problem involves too many unknown quantities. The basis of representation of the offending state, says the constitution, "shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state." Granted that some census, state or national, may tell with the requisite accuracy the number of male citizens twenty-one years of age

and over, what basis is there for estimating the number of those whom the educational test excludes from the suffrage? It is not the number of adult male citizens who are not registered; for indifference, illness, engagements and a host of other reasons have kept many from registering. Nor is it the number of those who have been rejected by the registration officers under the application of these tests; for the vast majority of those actually excluded foresee that result and never face the ordeal. No state desirous of adopting an educational qualification for the suffrage need hesitate because of the threat that its representation would be diminished in proportion to the number that failed to pass the test, for that number would always be small. Nor will the wish for vengeance on the party in power prove a motive strong enough to bring the illiterate *en masse* before the registrars to secure, not their own enfranchisement, but the cutting down of their state's proportional influence — a result deprecated by all parties alike.

IV.

As the constitutionality of such qualifications is not likely to be invalidated, it is their justice and expediency which their opponents will question. Thus, in the Senate debate before mentioned, the senator from Illinois denounced "the whole principle upon which these requirements are made" as "a crime against humanity," and charged that the "miserable," the "fatal" example of Massachusetts was pleaded "by way of extenuation or excuse for that system by which a large proportion of the men of the South are excluded from the exercise of their rights." The issue between the advocate and the opponent of these educational qualifications is radical: it touches the very nature of the suffrage. Is it the natural right of all citizens, or is it the privilege, the *legal* right of certain classes? The list of man's natural rights is not written so long to-day as it was a century ago. Even the rights to life, liberty and the pursuit of happiness are seen to be closely limited by the demands of social well-being. If a man commits murder,

society exacts his life as the penalty; if his crime is less heinous, he is deprived of his liberty and his pursuit of happiness is narrowly circumscribed. Man is a social, a political being: that he has rights affecting others than himself, not subject to limitation by, and for the good of, the community of which he is a member, is a thesis that few will care to defend. The "right to participate in his government" is thus not a natural, indefeasible right of man, but a right conferred by the state — a right that is the creature of law. In no state on the face of the earth is the suffrage right coextensive with citizenship: everywhere there are limitations — always of age, usually of sex, frequently of property — and these limitations vary widely.

In short, according to its stage of development and in the light of its own experience and that of others, each state determines for itself to what classes of its citizens the suffrage shall be given. A mistake may, indeed, be made in this quest for the classes possessed of selective judgment. It may be that the restrictions are too closely drawn, — that the community would be better governed if the age limit were lowered, if the sex limit were removed. From time to time "the political people" in each state face and decide such questions. The framers of our own constitution faced it in 1787; and the significant fact is that, after full discussion of a uniform voting system based upon suffrage regulations common to all the states, they decided to leave untouched *all* the existing diversities. In no two states were the qualifications of voters settled upon the same basis.[1] Different regulations prevailed as to residence, freeholding, payment of taxes. Not only were all these diversities recognized, but, subject only to the condition that in each state there should be guaranteed a republican form of government, no obstacle was placed in the way of further curtailment or widening of the suffrage. Upon this freedom of regulation the Fifteenth Amendment places limits: no voter may be debarred because of race, color, or previous condition of servitude. But the Fourteenth Amendment is less imperative. Under it a

[1] Story, Commentaries on the Constitution of the United States, II, 55–58.

state, while retaining "a republican form of government," [1] may modify its suffrage qualifications as much as it pleases under penalty of having its influence diminished in national affairs—a penalty practically incapable of enforcement.

If, then, the question between the state and its citizen be debated simply from the standpoint of political expediency in the broad sense, on what basis do the educational qualifications stand? Against them it is urged that under them "law-abiding, orderly, industrious men are denied a right to participate in the government which they are compelled to support by the payment of taxes and by other means." Obviously the same plea that is here put forward for the illiterates might with equal force be advanced for the woman taxpayer and for the minor. A boy of eighteen may be drafted to defend his country at peril of his life; if he inherits property, the estate will not be exempt in the assessment of taxes; but he may not vote, for the simple reason that the "political people" in our American communities are as yet unconvinced that eighteen-year-old boys as a class have that degree of selective judgment to which affairs of state may be safely intrusted.

Again, it is urged that these restrictions are inexpedient, because they are directed at illiteracy, whereas the real evil

[1] It is interesting to note that in February, 1897, a negro ex-member of Congress from South Carolina, then a contestant for a seat, threatened to challenge the counting of South Carolina's electoral votes on the ground that that state was no longer under "a republican form of government," owing to the unfair application of the suffrage tests. He was dissuaded by party friends from making this demonstration. In a letter bearing date of December 1, 1897, he indulges in some sweeping statements: for example, "It is a notorious fact that not only every white man appearing before the board in person or by proxy was registered, but when failing to appear in either capacity, where their addresses could be secured their certificates of registration were sent them through the mails. . . . It is generally understood that the scheme was to register only one colored man in ten, and whosesoever lot it was to destroy that proportion was turned down, whether lawyer, doctor, school teacher, or college professor." In commenting upon these statements, a professor in a South Carolina university writes: "I only know there has been no very strenuous effort to disfranchise white men. . . . There is, I should say, absolutely no truth in the 'one in ten scheme,' nor in the statements in regard to registration certificates sent by mail. My experience is that voting is rather a difficult matter for white men. Numbers of the best white citizens of —— have been excluded from the polls on account of some trifling technicality."

lies in defects of character, a man of criminal or anti-social instincts being all the more dangerous in proportion as he is educated. Those holding this view would, however, probably hesitate to advocate the closing of the schools as a means for raising the moral standard of the community. Training must be sadly one-sided when education is not proving itself to be one of the strongest safeguards of public morality. Further, it is to be noted that this argument against the educational qualifications fails to make its point, since our American states in somewhat varying terms already agree in excluding criminals from the suffrage. So soon as conviction of serious crime proves their criminal nature, they lose their votes; and in several states the tendency is to make the loss permanent with removal of doubt as to their anti-social nature. But we have to wait for such men to reveal themselves; for a test of criminal character cannot be applied, like one of illiteracy, at the instance of the state. If it were possible, what state would hesitate to apply the touchstone to its citizens?

But the expediency of an educational qualification for the suffrage rests not on negative reasoning alone. The state cannot afford to accept the absence of criminal instincts, or even positive goodness, as an adequate requirement from those citizens who are to determine its fate. Self-preservation demands more. "Participating in his government" is no child's play: it calls for a moderate degree of intelligence, with the power to learn at first hand. If matters of the gravest moment are to be left to the decision of the majority, it becomes of the utmost concern that the individuals who make up that majority shall at least have the possibility of learning for themselves in regard to the questions at issue; otherwise *vox populi* is as likely to be *vox diaboli* as *vox dei*.[1] Integrity, intelligence, independence of judgment, disinterestedness, a consciousness of the citizen's debt to the state — these are the qualities of a good citizen. It is with the prevalence of these that the future of democracy rests. They may all be present without the ability to read or

[1] MacCunn, "The Rule of the Majority in Politics," Ethics of Citizenship, ch. v. See also J. S. Mill, Representative Government, ch. viii.

write or "cipher," yet in such communities as our own the lack of such ability in any man affords strong presumptive evidence that in him some, at least, of these qualities are wanting.

The educational qualification emphasizes the fact that the granting of the suffrage should be in recognition of the voter's having reached a certain plane of mental and moral development, rather than of his having merely filled out twenty-one years of existence. The man, be he native or foreign-born, who, amid the wealth of opportunities by which he is surrounded in America, is too inert to win for himself the slight intellectual attainments which this test requires, by that very fact proclaims his low and unpatriotic notion of citizenship not less clearly than does the coward who sneaks away to avoid the draft. To settle questions at issue peaceably, intelligently, justly, without recourse to arms save as a last resort, is the aim of the most advanced governments — an aim ever harder to realize in proportion as the suffrage is degraded. Not more than once in a generation is the American citizen summoned to defend the state at peril of his life; it is at the ballot box that the real battles of the new age are being fought out. It is there by quiet, undramatic, but none the less patriotic, service that the commonweal is defended from assault. The state does well to hold its suffrage a thing of worth, to make it a prize to be sought after — a privilege to which the incapable may not aspire.

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